IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. NO. 536 OF 1988

DATE OF DECISION: January 17, 2007

Parties Name

Guru Nanak Public School, Khant Manpur

..APPELLANT

VERSUS

Punjab Roadways, Ludhiana and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH

PRESENT: Mr. Karminder Singh,
Advocate, for the appellant.

Ms. Nirmaljit Kaur, Addl. A.G., Punjab;

JASBIR SINGH, J. (oral)

Order.

Appellant has filed this appeal against the award dated February 18, 1988, vide which the Motor Accidents Claims Tribunal at Ropar dismissed its application, for payment of compensation, with regard to damage caused to its vehicle, in a motor accident on September 12, 1986.

Factum of accident and damage caused to the vehicle therein are not in dispute. It is also not in dispute that on the relevant date, appellant was the registered owner of the bus bearing No. PUR 9418 and the same was being driven by one Mohan Singh. Relief has been declined to the appellant on the ground that before the date of accident on March 1, 1986, on the basis of agreement to sell Ex. P20, the appellant had sold the above said vehicle to said Shri Mohan Singh. Counsel for the appellant, by

referring to findings on issues No. 5 and 6, has vehemently contended that the finding given by the Court below is not as per evidence on record. He further argued that even as per agreement to sell, referred to above, bus was sold for an amount of Rs. 60,000/- and it has come on record that said Shri Mohan Singh had paid only an amount of Rs. 15,000/-. In view of this, bus was not transferred in his favour and he continued to work as a Driver. To say so, he has referred to the averments made by Shri Mohan Singh, who also suffered injuries in that accident, made by him in his claim application, wherein he, against column No. 5, has mentioned that he was a Driver on the bus, owned by the appellant.

We feel that the finding given by the Court below is not correct. It is not in dispute that the appellant was registered owner of the bus on the relevant date. May be on the basis of agreement dated March 1, 1986, bus was agreed to be sold to said Shri Mohan Singh, as he had paid only Rs. 15,000/-, out of the sale consideration of Rs. 60,000/-, the bus was not transferred in his name. He continued to work as Driver on the said bus. This fact is apparent from the averment made by Shri Mohan Singh in his claim application. Para No. 5 of the same reads thus:

"Driver of the bus Guru Nanak Public School, Khant Manpur"

It is not in dispute that Mohan Singh also received injuries in the accident, in question and he had filed an application to claim compensation, only with regard to injuries received by him and he never put up any claim, to get compensation with regard to the damage caused to the bus in question. Perusal of records of FAO No. 506 of 1988, filed by Shri Mohan Singh, for enhancement of compensation, proves the fact, mentioned

above. In that appeal also, said Mohan Singh prayed that compensation qua injuries , caused to him, be enhanced. That appeal was allowed by this Court on August 1, 2002. Once it has come on record that said Shri Mohan Singh had not raised any claim, to get compensation with regard to damage caused to the motor vehicle in question, it was not justified for the Tribunal below to say that the appellant was not owner of the bus bearing No. PUR 1498 especially when Mohan Singh was also a party in litigation before the Court below. So far as damage caused to the vehicle is concerned, sufficient evidence was brought on record to prove the same. Regarding that, counsel for the respondent has failed to show anything to the contrary.

In view of facts, mentioned above, this appeal is allowed, order passed by the Motor Accidents Claims Tribunal, Ropar, is set aside to the extent it declines grant of compensation to the appellant. It is ordered that the appellant shall be entitled to get an amount of Rs. 21605.72 paise as compensation, towards damage caused to bus No. PUR9418. It shall also be entitled to get interest at the rate of 8% per annum (simple) from the date of moving the application to claim compensation till realization of the amount, referred to above.

January 17, 2007. (Jasbir Singh)
DKC Judge